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From:

Sent: 1/27/09

To:

Cc:

Subject: Short Sales and FIRPTA Withholding

Here is the response I received from Branch of , which handles basis issues. I believe the basic message from is that he doesn't see an basis issue. Please let me know if you need further help.

From:

Sent: Tuesday, January 27, 2009 12:37 PM

To:

Cc:

Subject: RE: Short sales and firpta withholding

I spoke to . He agrees that we don't handle withholding questions. We can help with amount realized, however, as I mentioned below, I don't think that's the question. In a recourse situation, taxpayer is required to bifurcate the transaction. The amount realized is \$ and the COD is \$. (Section 121 may or may not apply to gain realized. Section 108(h) may or may not apply to the COD.) In a nonrecourse situation, the amount realized is \$ and there is no COD. (Section 121 may or may not apply to gain realized.) I don't know how the FIRPTA withholding regulations apply or what they latch onto for withholding purposes (selling price or amount realized or COD or gain realized or something else?) Let me know if you need anything more.